

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

PHUOC TAN NGUYEN,

Defendant.

Case No. CR07-118MJP

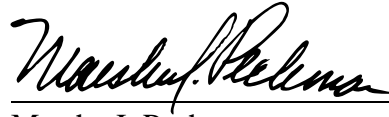
ORDER

This matter comes before the Court on Defendant's motion for return of personal property. (Dkt. No. 56.) Defendant seeks the return of his passport, his Canadian Citizenship Card, his medical insurance card, his Social Identification Number Card, and his Costco Credit Card, along with all other personal items taken from him or his residence by the government or its agents. The Government has no objection to returning any of these items except for Defendant's Canadian passport. (Dkt. No. 58.) The Government contends that because Immigration and Customs Enforcement ("ICE") will be seeking Defendant's deportation upon completion of his sentence, and because the passport belongs to the Canadian government, ICE should retain custody of the passport.

The Court will not allow the retention of the property because the Government has offered no legal authority or evidence to support its position. After the completion of criminal proceedings, the person from whom property has been seized is presumed to have a right to its return, and the government has the burden of demonstrating that it has a legitimate reason to retain the property. United States v. Martinson, 809 F.2d 1364, 1369 (9th Cir. 1987). Because the Government has not carried its burden of demonstrating that it has a legitimate reason to retain Mr. Nguyen's passport, Defendant's motion is GRANTED. All items listed in Defendant's

1 motion shall be returned to Defendant or his designee within ten (10) calendar days of this order.

2 Filed this 7<sup>th</sup> day of January, 2008.

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5 United States District Judge  
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